

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSE-2020-96 and should be submitted on or before April 14, 2021. Rebuttal comments should be submitted by April 28, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>47</sup>

**Eduardo A. Aleman,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91350; File No. SR-NSCC-2021-002]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Amend the Supplemental Liquidity Deposit Requirements

March 18, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 5, 2021, National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency.<sup>3</sup> The

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of modifications to Rule 4(A) (Supplemental Liquidity Deposits) of the NSCC's Rules & Procedures ("Rules") to (1) calculate and collect, when applicable, supplemental liquidity deposits to NSCC's Clearing Fund ("Supplemental Liquidity Deposits," or "SLD") on a daily basis rather than only in advance of the monthly expiration of stock options (defined in Rule 4(A) as "Options Expiration Activity Period"); (2) establish an intraday SLD obligation that would apply in advance of Options Expiration Activity Periods and may also be applied on other days, as needed; (3) implement an alternative pro rata calculation of Members' SLD obligations that may apply in certain circumstances; and (4) simplify and improve the transparency of the description of the calculation, collection and treatment of SLD in Rule 4(A) of the Rules, as described in greater detail below.<sup>4</sup>

#### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

##### (A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

NSCC is proposing to enhance its management of the liquidity risks that arise in or are borne by it by calculating and collecting, when applicable, SLD on each Business Day rather than only in advance of Options Expiration Activity Periods. The proposed changes would establish an intraday SLD obligation that would apply in advance of Options

Expiration Activity Periods and may be applicable on any Business Day, as needed. The proposal would also implement an alternative pro rata calculation of Members' SLD obligations that may apply in certain circumstances. Finally, in connection with these proposed changes, NSCC would simplify and improve the description of the calculation, collection and treatment of SLD in Rule 4(A). These proposed rule changes are described in greater detail below.

###### (i) Overview of the NSCC Liquidity Risk Management

NSCC, along with its affiliates, The Depository Trust Company and Fixed Income Clearing Corporation, maintains a Clearing Agency Liquidity Risk Management Framework ("Framework") that sets forth the manner in which NSCC measures, monitors and manages the liquidity risks that arise in or are borne by it.<sup>5</sup> As a central counterparty, NSCC's liquidity needs are driven by the requirement to complete end-of-day money settlement, on an ongoing basis, in the event NSCC ceases to act for a Member (hereinafter referred to as a "default").<sup>6</sup> If a Member defaults, NSCC needs to complete settlement of guaranteed transactions on the defaulted Member's behalf from the date of default through the remainder of the settlement cycle. As such, and as provided for in the Framework, NSCC measures the sufficiency of its qualifying liquid resources through daily liquidity studies across a range of scenarios, including amounts NSCC would need in the event the Member or Member family with the largest aggregate liquidity exposure defaults.<sup>7</sup>

As described in the Framework, NSCC seeks to maintain qualifying liquid resources in an amount sufficient to cover this risk. These resources currently include (1) cash deposits to the NSCC Clearing Fund;<sup>8</sup> (2) the proceeds of the issuance and private

<sup>5</sup> See Securities Exchange Act Release No. 82377 (December 21, 2017), 82 FR 61617 (December 28, 2017) (File Nos. SR-DTC-2017-004; SR-FICC-2017-008; SR-NSCC-2017-005).

<sup>6</sup> The Rules identify when NSCC may cease to act for a Member and the types of actions NSCC may take. For example, NSCC may suspend a firm's membership with NSCC or prohibit or limit a Member's access to NSCC's services in the event that Member defaults on a financial or other obligation to NSCC. See Rule 46 (Restrictions on Access to Services) of the Rules, *supra* note 4.

<sup>7</sup> "Qualifying liquid resources" are defined in Rule 17Ad-22(a)(14) under the Act. 17 CFR 240.17Ad-22(a)(14). The Framework also includes a definition of qualifying liquid resources that incorporates by reference Rule 17Ad-22(a)(14). See *supra* note 5.

<sup>8</sup> See Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters) of the Rules, *supra* note 4.

<sup>47</sup> 17 CFR 200.30-3(a)(57).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> NSCC filed this proposed rule change as an advance notice (File No. SR-NSCC-2021-801) with the Commission pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1), and Rule 19b-4(n)(1)(i) under the Act, 17 CFR 240.19b-4(n)(1)(i). A copy of the

advance notice is available at <http://www.dtcc.com/legal/sec-rule-filings.aspx>.

<sup>4</sup> Capitalized terms not defined herein are defined in the Rules, available at [http://dtcc.com/-/media/Files/Downloads/legal/rules/nsc\\_rules.pdf](http://dtcc.com/-/media/Files/Downloads/legal/rules/nsc_rules.pdf).

placement of (a) short-term, unsecured notes in the form of commercial paper and extendable notes (“Commercial Paper Program”),<sup>9</sup> and (b) term debt (“Term Debt Issuance”);<sup>10</sup> (3) cash that would be obtained by drawing on NSCC’s committed 364-day credit facility with a consortium of banks (“Line of Credit”);<sup>11</sup> and (4) Supplemental Liquidity Deposits, collected pursuant to Rule 4(A), which are currently designed to cover the heightened liquidity exposure arising around Options Expiration Activity Periods, required from those Members whose activity would pose the largest liquidity exposure to NSCC.<sup>12</sup>

NSCC’s liquidity risk management has evolved in order to adhere to regulatory requirements that were adopted after Rule 4(A) was implemented.<sup>13</sup> As part of its efforts to maintain compliance with these requirements, NSCC has continued to strengthen its liquidity risk management strategy, including through growing and diversifying its qualifying liquid resources. In connection with these ongoing efforts, NSCC is proposing to calculate and collect, when applicable, SLD every Business Day rather than only in connection with Options Expiration Activity Periods. This proposed change would improve NSCC’s ability to measure and monitor its daily liquidity exposures and allow it to collect additional qualifying liquid resources from Members whose activity poses the largest liquidity exposure to NSCC in connection with their daily settlement activity, and not only during Options Expiration Activity Periods. By measuring SLD against Members’ actual daily settlement activity and NSCC’s available qualifying liquid resources, the proposal would also help mitigate risks to NSCC that it is unable to secure adequate default liquidity from other sources in an amount necessary to meet its liquidity needs. For example, the proposal would help mitigate the risks that could arise if investor demand for

the short-term notes issued under the Commercial Paper Program weakens, there is limited investor demand for term debt issued pursuant to a Term Debt Issuance, or NSCC is unable to renew its Line of Credit at the targeted amount.

NSCC is also proposing to establish an intraday SLD obligation that would apply on the first Business Day of the Options Expiration Activity Period to allow NSCC to continue to mitigate the additional liquidity exposures presented by options activity. The proposal would also permit NSCC to calculate and collect an intraday SLD on any Business Day when, for example, NSCC believes that it is necessary to collect an additional SLD from a Member whose activity presents relatively greater risks to the NSCC on an overnight basis.

NSCC is also proposing to implement an alternative calculation of Members’ SLD requirements that would be their pro rata allocation of the largest SLD obligation calculated for that Business Day. This proposed change would provide NSCC with the discretion, in certain circumstances, to allocate its largest liquidity need on a Business Day among those Members that are required to pay SLD on that day rather than collect separate SLD from those Members, as described in greater detail below.

In connection with these proposed changes, NSCC would also simplify the description of the calculation of SLD in Rule 4(A) in order to improve the transparency of this Rule, as described in greater detail below.

#### (ii) Current Rule 4(A) and Supplemental Liquidity Deposits

Under the current Rule 4(A), NSCC collects SLD from the unaffiliated Members and families of affiliated Members (each defined as an “Affiliated Family”) that incur the largest gross settlement debits over the settlement cycle during times of increased trading activity that arise around Options Expiration Activity Periods.<sup>14</sup>

Under the current Rule 4(A), NSCC performs calculations on a monthly basis, no later than the fifth day prior to an Options Expiration Activity Period, using activity observed over a 24-month lookback period (defined in the current Rule 4(A) as the “Special Activity Lookback Period”).<sup>15</sup> These calculations determine (1) NSCC’s largest liquidity need that exceeded its liquidity resources (defined in Rule 4(A) as “Special Activity Peak Liquidity

Need”); and (2) the 30 (or fewer) unaffiliated Members or Affiliated Families (defined in Rule 4(A) as “Special Activity Liquidity Providers”) that presented the largest liquidity exposures to NSCC (defined in Rule 4(A) as “Special Activity Peak Liquidity Exposures”).<sup>16</sup> To determine the SLD obligations of each Special Activity Liquidity Provider, the calculated Special Activity Peak Liquidity Need of NSCC is allocated to these Special Activity Liquidity Providers in proportion to the Special Activity Peak Liquidity Exposures they presented to NSCC during the Special Activity Lookback Period. Special Activity Liquidity Providers are required to fund their SLD obligations by the close of business on the second day prior to the applicable Options Expiration Activity Period.<sup>17</sup> SLD may be returned to Special Activity Liquidity Providers seven Business Days after the end of the applicable Options Expiration Activity Period.<sup>18</sup>

On any Business Day between calculation dates, if NSCC observes an increase in its liquidity needs that exceeds a predetermined threshold amount, it may call for an additional deposit from the Member whose increase in activity levels caused (or was the primary cause of) such increased liquidity need (defined in Rule 4(A) as “Special Activity Liquidity Call”).<sup>19</sup> NSCC may hold deposits made pursuant to a Special Activity Liquidity Call for up to 90 days after the deposit is made.<sup>20</sup> Members are also permitted to submit a cash deposit to the Clearing Fund as a “Special Activity Prefund Deposit” no later than the first Business Day of an Options Expiration Activity Period.<sup>21</sup> NSCC understands that a Member would generally make a Special Activity Prefund Deposit when it anticipates that its Special Activity Peak Liquidity Exposure during that period may be greater than the amount calculated by NSCC pursuant to Rule 4(A) based on activity in the Special Activity Lookback Period.<sup>22</sup>

<sup>16</sup> See Section 3 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>17</sup> See Section 4 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>18</sup> See Section 9 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>19</sup> See Section 7 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>20</sup> See Section 10 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>21</sup> See definition of “Special Activity Prefund Deposit” in Section 2 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>22</sup> See *id.*

<sup>9</sup> See Securities Exchange Act Release Nos. 75730 (August 19, 2015), 80 FR 51638 (August 25, 2015) (File No. SR–NSCC–2015–802); 82676 (February 9, 2018), 83 FR 6912 (February 15, 2018) (File No. SR–NSCC–2017–807).

<sup>10</sup> See Securities Exchange Act Release No. 88146 (February 7, 2020), 85 FR 8046 (February 12, 2020) (File No. SR–NSCC–2019–802).

<sup>11</sup> See Securities Exchange Act Release No. 80605 (May 5, 2017), 82 FR 21850 (May 10, 2017) (File Nos. SR–DTC–2017–802; SR–NSCC–2017–802).

<sup>12</sup> See Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *supra* note 4. See also Securities Exchange Act Release Nos. 70999 (December 5, 2013), 78 FR 75413 (December 11, 2013) (File No. SR–NSCC–2013–02); 71000 (December 5, 2013), 78 FR 75400 (December 11, 2013) (File No. SR–NSCC–2013–802).

<sup>13</sup> See 17 CFR 240.17Ad–22(e)(7). See also *supra* note 5.

<sup>14</sup> See Section 2 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *supra* note 4.

<sup>15</sup> See *id.*

The current Rule 4(A) also addresses how SLD are treated generally.<sup>23</sup> Specifically, while SLD are part of a Member's actual deposit to the Clearing Fund, they are made in addition to a Member's Required Fund Deposit and any other deposit of any such Member to the Clearing Fund.<sup>24</sup> Rule 4(A) also provides that SLD may be invested and may be used to satisfy a loss or liability as provided for in Sections 3 or 13 of Rule 4, and addresses NSCC's obligation to provide Members with certain information that would help them anticipate their potential SLD requirements.<sup>25</sup>

(iii) Amended Rule 4(A) and Proposed Daily Calculation of Supplemental Liquidity Deposits

In order to better address the liquidity risks presented by Members' daily activity, NSCC is proposing to amend Rule 4(A) to calculate and collect, when applicable, SLD every Business Day rather than only in connection with the monthly expiration of stock options. While the monthly expiration of stock options does present larger liquidity exposures to NSCC, NSCC may also face large liquidity exposures from Members' daily activity, particularly during volatile market conditions. By allowing NSCC to calculate and collect SLD daily, NSCC would be able to identify these exposures based on Members' daily activity rather than estimate its upcoming liquidity exposures based on activity observed over a lookback period. The proposal would help NSCC mitigate its liquidity risks through the daily collection of SLD from those Members' whose daily activity would, in the event of the Member's default, create a potential liquidity need that is in excess of NSCC's available qualifying liquid resources. The proposal would also permit NSCC to return SLD to Members on the Business Day following the day those deposits are collected and would remove the current requirement that SLD be held for up to 90 days.

In order to implement this proposed change to the timing of the SLD, NSCC would make a number of changes to Rule 4(A), described below. The proposed changes to Rule 4(A) would implement a daily calculation and collection of SLD, simplify and clarify the calculations done in connection with the SLD requirements, and enhance the disclosures of the SLD requirements. Despite these proposed

changes, the structure of Rule 4(A) and the fundamental mechanics of the SLD requirements would be unchanged.

Proposed Daily Calculation of Supplemental Liquidity Deposits

*Supplemental Liquidity Providers.* Under the proposed Rule 4(A), each Business Day NSCC would determine the 30 (or fewer) Members (each such Member a "Supplemental Liquidity Provider") that had the "Peak Liquidity Need," which would be defined as the largest Daily Liquidity Need that NSCC would have for that Member or Affiliated Family in a "Lookback Period."<sup>26</sup> For purposes of this calculation, Daily Liquidity Need would be defined as the amount of liquid resources needed to effect the settlement of NSCC's payment obligations as a central counterparty over a three day settlement cycle, assuming the default of that Member on that day.

As described above, Supplemental Liquidity Providers are currently identified by reviewing Members' Special Activity Peak Liquidity Exposures over the Lookback Period. Under the proposed approach, NSCC would base this determination on Members' Peak Liquidity Need, which would continue to identify those Members whose activity posed the largest liquidity risks to NSCC during the Lookback Period. The proposed approach would no longer require a calculation using NSCC's available liquid resources on each day in the Lookback Period but would use a simpler approach by looking only at liquidity need. The proposed approach to use a simpler calculation would reduce the risk of error and would clarify the description of how NSCC would identify Supplemental Liquidity Providers in the proposed Rule 4(A), making it more predictable to Members.

*Supplemental Liquidity Obligation.* After NSCC determines the Supplemental Liquidity Providers, NSCC would then determine if any of the Supplemental Liquidity Providers would be required to pay an SLD on that Business Day. The proposed Rule 4(A) would use a simplified calculation by determining if the Daily Liquidity Need for each Supplemental Liquidity Provider on that Business Day exceeds the sum of NSCC's qualifying liquid

resources available to NSCC on that day, assuming stressed market conditions (described below) (defined in the proposed Rule 4(A) as "Qualifying Liquid Resources"). The result of that calculation would be a Supplemental Liquidity Provider's SLD requirement (defined in the proposed Rule 4(A) as a "Supplemental Liquidity Obligation") for that day. If the Daily Liquidity Need of a Supplemental Liquidity Provider does not exceed NSCC's Qualifying Liquid Resources on that day, then it would not have a Supplemental Liquidity Obligation.

Because this calculation would be done at the start of each Business Day (as discussed further below), it would be based on the Qualifying Liquid Resources, including Required Fund Deposits to the Clearing Fund, available to NSCC as of the end of the prior Business Day. Additionally, in order to anticipate market conditions that could cause Qualifying Liquid Resources to be unavailable on that day, NSCC would apply stress scenarios in determining its total Qualifying Liquid Resources for purposes of Rule 4(A). Currently, NSCC applies stress scenarios in determining the Special Activity Daily Liquidity Need and, in practice, they are currently applied to the Other Qualifying Liquid Resources in this calculation under the current Rule 4(A).<sup>27</sup> The proposed change would allow NSCC to continue to assume stressed markets in its SLD calculations, which protects it against unexpected market events.<sup>28</sup> The proposed changes to Rule 4(A) would make it clearer how these stress scenarios are applied.

Under this proposed calculation, NSCC would no longer need to estimate the potential liquidity need a Member's activity could pose to NSCC based on activity that settled in the Lookback Period. Instead, the Supplemental Liquidity Obligation of a Member would be calculated based on the actual liquidity exposure that its daily activity would pose to NSCC on that particular day in the event of that Member's default. The proposed change provides both NSCC and Members with a more

<sup>27</sup> Current Rule 4(A) uses the defined term "Other Qualifying Liquid Resources" to refer to NSCC's qualifying liquid resources other than the Clearing Fund and the Line of Credit. See Section 2 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>28</sup> NSCC would apply the same stress scenarios that it currently applies, which include the market shocks of 1987, and removing the largest commitment to the Line of Credit, excess deposits to the Clearing Fund on deposit and proceeds from issued commercial paper that is maturing within five Business Days from NSCC's Qualifying Liquid Resource. Any changes to these stress scenarios would be announced by an Important Notice posted to NSCC's website.

<sup>23</sup> See Section 13 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>24</sup> See Section 13(b) of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>25</sup> See Section 13(c) and Section 14 of Rule 4(A) (Supplemental Liquidity Deposits) of the Rules, *id.*

<sup>26</sup> The "Lookback Period" would continue to be defined as 24 months, or a longer period as determined by NSCC in its discretion. NSCC may adjust the Lookback Period if, for example, unusual activity observed in the Lookback Period is not an appropriate indicator of future settlement activity and causes a Member to be a Supplemental Liquidity Provider. See Section 2 (Defined Terms) of Rule 4(A), *id.*

reliable measure of the liquidity risks posed to NSCC by its Members' daily settlement activity in calculating SLD requirements.

Each Supplemental Liquidity Provider that has a Supplemental Liquidity Obligation on a Business Day would receive a notice from NSCC of the amount of its Supplemental Liquidity Obligation and would be required to make a deposit in that amount to the Clearing Fund within one hour of such notice. The proposed timing of funding a Supplemental Liquidity Obligation would mirror the current requirement that is applied to Members' Required Fund Deposits, which is also calculated and collected daily, and must be funded within one hour of demand.<sup>29</sup> Specifically, NSCC expects to deliver notification of Supplemental Liquidity Obligations to Supplemental Liquidity Providers by around 8:30 a.m. ET each Business Day, with deposits required by no later than 9:30 a.m. ET.

*Proposed Pro Rata Calculation of Supplemental Liquidity Obligations.* As an alternative to the calculation of Supplemental Liquidity Obligations described above, proposed Rule 4(A) would also state that, in the event two or more Supplemental Liquidity Providers have a Supplemental Liquidity Obligation of more than \$2 billion on a Business Day, calculated pursuant to the calculation described above, NSCC may determine the Supplemental Liquidity Obligation of all Supplemental Liquidity Providers on that day would be their pro rata share of the largest Supplemental Liquidity Obligation calculated on that Business Day.<sup>30</sup>

This proposed alternative calculation of the Supplemental Liquidity Obligations would provide NSCC with the option of collecting only the largest SLD calculated on a Business Day, allocated among each of the Supplemental Liquidity Providers. The purpose of this proposed provision is to

provide NSCC with the option of collecting enough funds to meet its regulatory requirements in circumstances when the aggregate Supplemental Liquidity Obligations on a particular day would significantly exceed that amount. Therefore, NSCC has structured this provision to be available only if two or more Supplemental Liquidity Providers owe SLD of more than \$2 billion. NSCC has never had two or more Supplemental Liquidity Providers owe more than \$2 billion in SLD on a calculation date since Rule 4(A) was adopted. Therefore, NSCC believes this alternative calculation would only be available in very limited circumstances. Furthermore, NSCC believes the threshold of \$2 billion is appropriate as it would only permit this alternative calculation in circumstances when it would have a material impact on the allocation of Supplemental Liquidity Obligations among the Supplemental Liquidity Providers.

In such circumstances, when multiple Members have relatively large Supplemental Liquidity Obligations of more than \$2 billion, NSCC would have the option to determine if it is appropriate to collect the largest SLD calculated for that Business Day, divided pro rata among the Supplemental Liquidity Providers rather than collect the each of the Supplemental Liquidity Obligations of those firms. NSCC may determine, for example, that, in certain market conditions, this approach would be appropriate to alleviate liquidity pressures on Supplemental Liquidity Providers. This alternative calculation would allow NSCC to collect sufficient qualifying liquid resources to meet its regulatory obligations with respect to liquidity risk management without requiring all of the Supplemental Liquidity Providers to fund the total amount of their calculated Supplemental Liquidity Obligation on that Business Day.<sup>31</sup>

*Intraday Supplemental Liquidity Calls.* The proposed Rule 4(A) would also establish Intraday Supplemental Liquidity Calls that would replace the current Special Activity Liquidity Calls. The existing Special Activity Liquidity Calls are designed to address increases in NSCC's liquidity need between

calculation dates. The proposed Intraday Supplemental Liquidity Calls would serve a similar function, allowing NSCC to calculate and collect additional SLD on an intraday basis if a Supplemental Liquidity Provider's increased activity levels or projected settlement activity causes NSCC's Daily Liquidity Need to exceed NSCC's Qualifying Liquid Resources. This proposed provision would assist NSCC in mitigating increased liquidity exposures in specified circumstances.

First, proposed Rule 4(A) would establish a monthly Intraday Supplemental Liquidity Call that is calculated and collected, when applicable, on the first Business Day of an Options Expiration Activity Period, which is typically a Friday.<sup>32</sup> This Intraday Supplemental Liquidity Call would be calculated as the difference between (1) NSCC's Daily Liquidity Need, recalculated to account for both actual settlement activity submitted to NSCC over the course of Business Day and projected activity in stock options that is expected to be submitted to NSCC<sup>33</sup> and (2) NSCC's Qualifying Liquid Resources. Settlement activity may net with (and offset) the activity that NSCC uses in re-calculating the Daily Liquidity Need. In order to account for any potential offsetting settling activity, NSCC would adjust the re-calculated Daily Liquidity Need using an estimated netting percentage that is based on each Supplemental Liquidity Provider's average percentage of netting observed over the prior 24 months. Under this proposed provision, NSCC would adjust the amount of SLD it collects in order to mitigate the increased liquidity exposures related to the monthly expiration of stock options.

Second, proposed Rule 4(A) would allow NSCC to call for additional SLD on an intraday basis on any Business Day if a Supplemental Liquidity Provider's increased activity levels causes NSCC's Daily Liquidity Need to exceed NSCC's Qualifying Liquid Resources and NSCC determines, in its sole discretion, that it is appropriate to require an additional intraday SLD from

<sup>29</sup> See Section II(B) of Procedure XV (Clearing Fund Formula and Other Matters) of the Rules, *supra* note 4.

<sup>30</sup> As an example, the Supplemental Liquidity Obligations for three Supplemental Liquidity Providers on a Business Day are—Member A: \$6 billion, Member B: \$2 billion and Member C: \$1 billion. If NSCC determines, in its sole discretion, to calculate their Supplemental Liquidity Obligations on a pro-rata basis, then their Supplemental Liquidity Obligations would be—Member A: \$4 billion (or 2/3 of the largest Supplemental Liquidity Obligation of \$6 billion), Member B: \$1.3 billion (or 1/3 of the \$6 billion) and Member C: \$700 million (or 1/6 of the \$6 billion). The notice provided to each Supplemental Liquidity Provider on that Business Day would inform those Members that this pro-rata calculation was applied.

<sup>31</sup> Rule 17Ad-22(e)(7)(i) under the Act requires, in part, that NSCC maintain sufficient liquid resources at the minimum to effect same-day settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios, including the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions. 17 CFR 240.17Ad-22(e)(7)(i).

<sup>32</sup> The proposed Rule 4(A) will retain the existing definition of an Options Expiration Activity Period for purposes of this monthly Intraday Supplemental Liquidity Call.

<sup>33</sup> Each Business Day, NSCC receives information regarding projected settlement activity from The Options Clearing Corporation pursuant to a Stock and Futures Settlement Agreement ("OCC Accord"). The OCC Accord provides for the clearance and settlement of exercises and assignments of options on eligible securities or the maturity of eligible stock futures contracts through NSCC. See Securities Exchange Act Release No. 81260 (July 31, 2017), 82 FR 36484 (August 4, 2017) (File Nos. SR-NSCC-2017-803; SR-OCC-2017-804).

that Supplemental Liquidity Provider in order to mitigate those additional liquidity exposures. Under this proposed change, NSCC would have the ability to make an Intraday Supplemental Liquidity Call on any Business Day. The amount of an Intraday Supplemental Liquidity Call would be the difference between NSCC's Daily Liquidity Need, recalculated for that Business Day taking into account any increase in settlement activity, and NSCC's Qualifying Liquid Resources. This proposed provision would allow NSCC to adjust the amount of SLD it collects for a Business Day in circumstances when NSCC believes it is necessary to accelerate the collection of additional SLD from Supplemental Liquidity Providers whose activity may present relatively greater risks to the NSCC on an overnight basis. NSCC would determine if an Intraday Supplemental Liquidity Call is appropriate based on a variety of factors and circumstances, including, but not limited to, an assessment of a Supplemental Liquidity Provider's ability to meet its projected settlement or Supplemental Liquidity Obligations and estimates of settlement activity that could offset settlement exposures and are not reflected in NSCC's liquidity estimates.

*Returns of SLD and Miscellaneous Matters.* Proposed Rule 4(A) would provide that NSCC would return SLD, including any SLD funded pursuant to an Intraday Supplemental Liquidity Call, on the next Business Day unless such amounts are held longer by NSCC pursuant to proposed Section 12a of Rule 4(A), as described below. Under the current Rule 4(A), NSCC may hold SLD for up to seven Business Days after the end of the applicable Options Expiration Activity Period and may hold SLD funded pursuant to a Special Activity Liquidity Call for up to 90 days after such deposit is made. Under the proposed change, because NSCC would recalculate the Supplemental Liquidity Obligations each Business Day, NSCC would no longer need to hold SLD for these extended periods.

NSCC would amend proposed Section 12a (currently Section 13a) of Rule 4(A) to clarify that SLD, as part of Members' actual deposit to the Clearing Fund, would be subject to the provision of Section 9 of Rule 4. Section 9 of Rule 4 addresses NSCC's right to withhold all or any part of any excess deposit of a Member if such Member has been placed on the Watch List pursuant to the Rules or if NSCC determines that the Member's anticipated activities in NSCC in the near future may reasonably be expected to be materially different than

its activities of the recent past.<sup>34</sup> Current Section 13a of Rule 4(A) addresses how SLD are treated pursuant to other Rules, particularly Rule 4, which addresses Members' deposits to the Clearing Fund. While this proposal would not change NSCC's rights with respect to these funds, it would provide Members with greater transparency into how SLD are treated under Rule 4.

NSCC would also amend the provision in Rule 4(A) that addresses when SLD would be returned to a Member that ceases to be a participant. Currently, Rule 4(A) states that SLD are not subject to Section 7 of Rule 4 (which addresses how Required Fund Deposits are returned to retired Members) and, as such, are returned to retired Members as otherwise provided for in Rule 4(A).<sup>35</sup> Under the proposed Rule 4(A), because NSCC would be able to calculate SLD each Business Day, it would return SLD on the Business Day following the calculation date. However, while a firm may still have unsettled activity on the day it retires, NSCC would not be able to collect SLD on the days following a Member's retirement. Therefore, NSCC is proposing to amend Rule 4(A) to require that SLD of a retired Member be treated similarly to other cash Required Fund Deposits to the Clearing Fund and be held by NSCC for 30 calendar days after any of its open transactions have settled and obligations have been satisfied. This proposed change would protect NSCC from liquidity risks presented by open transactions in the days following a firm's retirement and would align the treatment of these funds with the treatment of Required Fund Deposits of retired Members.

The proposed Rule 4(A) would also simplify the additional miscellaneous provisions applicable to SLD, which address, for example, NSCC's right to debit Members' accounts at NSCC if a Supplemental Liquidity Provider fails to meet its Supplemental Liquidity Obligation, and the information NSCC makes available to Supplemental Liquidity Providers each Business Day regarding SLD calculations. While the proposed changes would update and simplify these provisions, they would not significantly alter the structure of these provisions, as described below.

<sup>34</sup> For example, this may occur when an index rebalancing occurs shortly after a month-end options expiration period, which could cause an increase in NSCC's liquidity exposures.

<sup>35</sup> Section 7 of Rule 4 provides that Required Fund Deposits to the Clearing Fund in the form of cash and securities are returned to retired Members within 30 calendar days after all of its transactions have settled and obligations have been satisfied. See *supra* note 4.

Proposed Changes to Rule 4(A)

The proposal described above would be implemented into the Rules by amending the current Rule 4(A). The specific changes to implement the proposal are described below.

*Section 1 (Overview).* NSCC is proposing changes to Section 1 of Rule 4(A) to simplify the descriptions by removing outdated and unnecessary language. Section 1 of Rule 4(A) would continue to provide the rationale for the SLD requirement, by describing NSCC's liquidity needs and how the SLD requirements are designed to contribute to meeting those needs. However, the proposed changes would simplify this section by removing a statement that specifically identifies two of NSCC's principal sources of liquidity and would instead more generally refer to NSCC's sources of liquidity. The proposed changes to Section 1 of Rule 4(A) would also remove references to options expiration activity periods, which would no longer be applicable to the SLD requirement under this proposal.

*Section 2 (Defined Terms).* NSCC is proposing several changes to Section 2 of Rule 4(A) in order to implement this proposal. As described below, the proposed changes to the defined terms address the change in timing of the SLD requirement to occur each Business Day and would improve the transparency of Rule 4(A) through simplified and clearer defined terms.

First, Section 2 of proposed Rule 4(A) would remove the definition of "Special Activity Calculation Date," which is tied to the monthly Options Expiration Activity Period, and instead would use the term "Business Day" throughout proposed Rule 4(A), where appropriate. Business Day is currently defined in Rule 1 as any day on which NSCC is open for business. Therefore, this proposed change would provide for the calculation of SLD requirements on each day that NSCC is open for business.

Second, Section 2 of the proposed Rule 4(A) revise other defined terms that use the phrase "Special Activity" to either remove that phrase or, when appropriate, to replace this phrase with the term "Supplemental." For example, NSCC would revise the defined term "Special Activity Daily Liquidity Need" to "Daily Liquidity Need," and would revise the defined term "Special Activity Liquidity Provider" to "Supplemental Liquidity Provider." The phrase "Special Activity" was used in the current Rule 4(A) to refer to the Options Expiration Activity Period, which would only be applicable to the monthly intraday SLD in the proposed Rule 4(A).

NSCC would also update the definition of Daily Liquidity Need to change a reference from a four-day settlement cycle to a three-day settlement cycle, to reflect the amendment to Rule 15c6-1(a) under the Act to shorten the standard settlement cycle for most broker-dealer transactions.<sup>36</sup> Additionally, NSCC would move the defined term for “Options Expiration Activity Period” within Section 2 of the proposed Rule 4(A) so it continues to appear alphabetically, but is not proposing to change the definition of this term.

Third, the proposed changes to Section 2 of Rule 4(A) would include one defined term for “Qualifying Liquid Resources” to refer to all default liquidity resources available to NSCC to settle its payment obligations as a central counterparty. As discussed in greater detail above, the defined term would provide that NSCC may apply stressed market assumptions to its Qualifying Liquid Resources when applying these resources in the calculations made under Rule 4(A). In connection with this proposed change, NSCC would remove the defined terms “Commitment” and “Credit Facility,” which were used in the current Rule 4(A) to refer to NSCC’s Line of Credit, and would remove “Other Qualifying Liquid Resources,” which was used to refer to NSCC’s liquid resources other than the Clearing Fund and the Line of Credit. This proposed change would simplify Rule 4(A) and would account for NSCC’s continuing efforts to expand and diversify its default liquidity resources. The proposed change would also clarify that Qualifying Liquid Resources would not include SLD for purposes of the calculations in Rule 4(A).

Fourth, the proposed changes would move certain calculations out of the defined terms in Section 2 and include them in the relevant later sections of Rule 4(A). This proposed change would simplify and clarify Rule 4(A), which currently requires a reader to refer back to the defined terms in Section 2 when reading the calculations and requirements set forth in later sections of Rule 4(A). For example, Section 2 of Rule 4(A) currently includes the calculation of “Special Activity Peak Liquidity Exposure” and “Special Activity Peak Liquidity Need.” In the proposed Rule 4(A), NSCC would no longer use the calculation of Special Activity Peak Liquidity Exposure in determining the Supplemental Liquidity Providers or in calculating those requirements. The calculation of Peak

Liquidity Need, which would replace Special Activity Peak Liquidity Need, would be moved out of Section 2 and into Section 3, where that calculation would be described as being used to identify Supplemental Liquidity Providers.

Finally, the proposed changes to Section 2 of Rule 4(A) would remove defined terms that are no longer needed when NSCC calculates SLD requirements daily. For example, NSCC would remove defined terms that are related to the Options Expiration Activity Period, including “Special Activity Business Day,” which is currently defined as a Business Day included in an Options Expiration Activity Period. NSCC would also remove the defined term for “Special Activity Prefund Deposit” because it would no longer be necessary for Members to prefund their potential SLD requirement in advance of NSCC’s calculations when they are done on a daily basis.

*Section 3 (Supplemental Liquidity Providers).* NSCC is proposing to amend Section 3 to describe how NSCC would identify the Supplemental Liquidity Providers for each Business Day. Section 3 of the proposed Rule 4(A) would state that, each Business Day, NSCC would determine the Peak Liquidity Need of each Member during the Lookback Period, and would identify the Supplemental Liquidity Providers for that Business Day as the 30 (or fewer) Members with the largest Peak Liquidity Need in that time period. These changes would implement the proposal described in greater detail above to make this calculation daily and to simplify the calculation used to identify Supplemental Liquidity Providers by using Peak Liquidity Need rather than using the largest exposures of all providers in the Lookback Period.

*Section 4 (Supplemental Liquidity Obligations); Section 5 (Satisfaction of Supplemental Liquidity Obligations); and Section 6 (Notice of Supplemental Liquidity Obligations and Payment of Supplemental Liquidity Deposits).* NSCC would amend Sections 4, 5 and 6 of Rule 4(A) to describe the simplified calculation of Supplemental Liquidity Obligations, and the process by which Supplemental Liquidity Providers would pay their Supplemental Liquidity Obligations after being notified by NSCC. Proposed changes to Section 4 would implement the revised calculation of Supplemental Liquidity Obligations, described in greater detail above, as the difference between a Supplemental Liquidity Provider’s Daily Liquidity Need for that Business Day and the Qualifying Liquid Resources

available to NSCC on that day. The proposed changes would also create a subsection b. of Section 4 to describe the optional, alternative pro rata calculation of Supplemental Liquidity Obligations, as described in greater detail above.

Proposed changes to Sections 5 and 6 of Rule 4(A) would update the defined terms and the timing by when Supplemental Liquidity Providers must fund their Supplemental Liquidity Obligations to reflect the change of these obligations to daily. Proposed changes to Section 6 of Rule 4(A) would state that the notice provided to Supplemental Liquidity Providers regarding their Supplemental Liquidity Obligations would state if that amount was calculated pursuant to Section 4b as a pro rata share of the largest Supplemental Liquidity Obligation of that Business Day.

*Section 7 (Determination of Intraday Supplemental Liquidity Calls) and Section 8 (Satisfaction of Intraday Supplemental Liquidity Calls).* NSCC would amend Sections 7 and 8 of Rule 4(A) to reflect the removal of the Special Activity Liquidity Calls and the adoption of the two Intraday Supplemental Liquidity Calls, as described in greater detail above. The proposed changes to these sections would also update defined terms, as appropriate.

*Returns of Supplemental Liquidity Deposits—Section 9 (Deposits Made in Satisfaction of a Supplemental Liquidity Obligation) and Section 10 (Ceasing to be a Participant).* NSCC is proposing to consolidate the current Sections 9 and 10 of Rule 4(A) into a new Section 9 of Rule 4(A), which would address the return of SLD that are made in satisfaction of both Supplemental Liquidity Obligations and Intraday Supplemental Liquidity Calls. The proposed changes would provide that SLD made pursuant to either Supplemental Liquidity Obligations and Intraday Supplemental Liquidity Calls would be returned to Supplemental Liquidity Providers on the next Business Day after the calculation date, unless otherwise notified by NSCC.

NSCC would amend Section 10 (currently Section 11) to align the treatment of SLD of a retired Member with the treatment of such firm’s Required Fund Deposits, as described in greater detail above.

*Miscellaneous Matters—Section 11 (Obligations of Affiliated Families and Supplemental Liquidity Providers), Section 12 (Application of Supplemental Liquidity Deposits) and Section 13 (Information).* NSCC would amend Sections 11, 12 and 13 (currently

<sup>36</sup> See 17 CFR 240.15c6-1.

Sections 12, 13 and 14) of Rule 4(A) to update and simplify these provisions. The proposed amendments would not substantially amend the purpose or application of these sections.

Section 11 (currently Section 12) of Rule 4(A) provides that the Supplemental Liquidity Obligations of Affiliated Families are the several obligations of all of the Members of the Affiliated Family ratably in proportion to their applicable Special Activity Peak Liquidity Exposure. NSCC would not change this provision but would update it to use revised defined terms. NSCC would also amend Section 11 by consolidating two parallel paragraphs into subsection b., which address NSCC's right to collect SLD from Supplemental Liquidity Providers. This proposed change would simplify the provision but would not make substantive changes to NSCC's rights or Members' obligations.

Section 12 (currently Section 13), which addresses how SLD are treated under Rule 4, would be amended to update defined terms and to clarify that SLD may be held by NSCC as part of Members' actual deposits to the Clearing Fund, pursuant to Section 9 of Rule 4. No substantive changes are proposed to this Section.

Section 13 (currently Section 14) describes NSCC's obligation to provide Members with certain information regarding its SLD calculation. NSCC is proposing to amend this section to include updated defined terms and to reflect the daily calculation of SLD.

#### (iv) Impact Study Results

NSCC has provided the Commission with the results of an impact study that reviewed the proposal against the observed regulatory liquidity needs and NSCC's Qualifying Liquid Resources available during the period from 2016 through 2020 to assess both pro-forma and hypothetical impacts of the proposal under various liquidity scenarios.

*Pro-Forma Impact Study.* The pro-forma impact study compared NSCC's regulatory liquidity needs against the Qualifying Liquid Resources that were available between 2016 and 2020. The pro-forma analysis indicated that NSCC would expect between 1 and 3 Supplemental Liquidity Obligations per year, ranging in size between \$1.0 billion to \$5.4 billion in 2016 through 2019. In calendar year 2020, the impact study shows that available Qualifying Liquid Resources for each date would have eliminated potential Supplemental Liquidity Obligations.

Additionally, this impact study showed between 4 and 27 actual

Supplemental Liquidity Obligations were received by NSCC per year, typically averaging \$3.6 billion during this same period, including 9 actual Supplemental Liquidity Obligations received by NSCC in 2020.

*Hypothetical Impact Study.* NSCC also developed several hypothetical liquidity scenarios to assess the proposal's impact. When hypothetical Qualifying Liquid Resources available to NSCC are between \$17 billion and \$22 billion, NSCC would expect between 7 and 36 Supplemental Liquidity Obligations per year, ranging in size between \$2.1 billion to \$4.6 billion each; and (2) when the hypothetical Qualifying Liquid Resources available to NSCC are \$22 billion or above, NSCC would expect between 1 and 5 Supplemental Liquidity Obligations per year, ranging in size between \$2.1 billion to \$6.8 billion each.

NSCC has also provided the Commission with details of potential impacts of the proposal on the largest 50 Affiliated Families, a list of the 30 Affiliated Families with the largest liquidity exposures as of December 31, 2020, and the respective Affiliated Families' maximum and average NSCC liquidity needs for each calendar year between 2016 and 2020.

#### (v) Implementation Timeframe

NSCC would implement the proposed changes no later than 10 Business Days after the later of the approval of the proposed rule change and no objection to the related advance notice<sup>37</sup> by the Commission. NSCC would announce the effective date of the proposed changes by Important Notice posted to its website.

#### 2. Statutory Basis

NSCC believes the proposed changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, NSCC believes the proposed changes are consistent with Section 17A(b)(3)(F) of the Act,<sup>38</sup> and Rules 17Ad-22(e)(7)(i) and (ii), each promulgated under the Act,<sup>39</sup> for the reasons described below.

Section 17A(b)(3)(F) of the Act requires that the rules of NSCC be designed to, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.<sup>40</sup> NSCC believes the proposed rule change is designed to

assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible because the proposal would allow NSCC to better limit its liquidity exposure to Members in the event of a Member default.

Specifically, under the proposal, each Business Day NSCC would measure the Supplemental Liquidity Obligation of each Supplemental Liquidity Provider as the difference between the Daily Liquidity Need of the Supplemental Liquidity Provider calculated for that Business Day and the Qualifying Liquid Resources available to NSCC on that day assuming stressed market conditions. By making these calculations daily based on Members' current activity and NSCC's resources currently available to NSCC, the proposed SLD requirement would provide NSCC with a more accurate measure of its potential liquidity exposures to its Members in the event of a Member default. The proposal would also establish a monthly intraday SLD collection in connection with options expiration activity that present heightened liquidity exposures, and an optional intraday SLD that NSCC may collect when it deems appropriate to mitigate any increased liquidity exposures or in light of other circumstances. These proposed intraday SLD would allow NSCC to re-calculate its liquidity exposures and collect sufficient liquidity to allow it to complete end-of-day settlement in the event of the default of a Member.

Additionally, by providing an alternative pro rata calculation of Supplemental Liquidity Obligations in certain circumstances, the proposal would provide NSCC with the flexibility to determine the total amount collected on a Business Day, while continuing to collect and hold sufficient liquidity to allow NSCC to complete end-of-day settlement in the event of the default of the Member with the largest payment obligations. In this way, the proposed change to calculate and collect, when applicable, SLD on a daily basis based on current information, and on an intraday basis when NSCC observes an increase in its Daily Liquidity Need, would help NSCC assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>41</sup>

The proposed changes to simplify and clarify Rule 4(A), which describes the SLD requirement, would also be consistent with the requirements of

<sup>37</sup> *Supra* note 3.

<sup>38</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>39</sup> 17 CFR 240.17Ad-22(e)(7)(i) and (ii).

<sup>40</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>41</sup> *Id.*

Section 17A(b)(3)(F) of the Act.<sup>42</sup> These proposed changes would make the rights and obligations of both NSCC and its Members under Rule 4(A) more transparent and easier to understand. A clearer rule supports the ability of Members to meet their obligations to provide NSCC with SLD when required. The liquidity provided to NSCC through the SLD allows it to complete end-of-day settlement in the event of the default of a Member. Therefore, by making the provisions of Rule 4(A) clearer, simpler and more transparent to Members, these proposed changes also support NSCC's compliance with the requirements of Section 17A(b)(3)(F) of the Act to assure the safeguarding of securities and funds which are in NSCC's custody or control or for which it is responsible.<sup>43</sup>

Rule 17Ad-22(e)(7)(i) under the Act requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient liquid resources at the minimum in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for NSCC in extreme but plausible market conditions.<sup>44</sup> Rule 17Ad-22(e)(7)(ii) under the Act requires that NSCC establish, implement, maintain and enforce written policies and procedures reasonably designed to hold qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under Rule 17Ad-22(e)(7)(i) in each relevant currency for which NSCC has payment obligations owed to its Members.<sup>45</sup>

As described above, the proposal would strengthen NSCC's ability to maintain sufficient liquidity to complete end-of-day settlement in the event of the default of a Member. The proposal would do this by allowing NSCC to calculate and collect, when applicable, SLD every Business Day from those Members that pose the largest liquidity exposures to NSCC on that day. The proposal would also include a mechanism to allow NSCC to collect

SLD on an intraday basis, including on the first Business Day of the Options Expiration Activity Period, when liquidity exposures are historically higher. These resources would be available to NSCC to complete end-of-day settlement in the event of the default of a Member. Further, SLD are currently, and would continue to be, held by NSCC at either its cash deposit account at the Federal Reserve Bank of New York, at a creditworthy commercial bank, or in other investments pursuant to the Clearing Agency Investment Policy.<sup>46</sup> Therefore, SLD would continue to be considered a qualifying liquid resource, as defined by Rule 17Ad-22(a)(14) under the Act,<sup>47</sup> and would support NSCC's ability to hold qualifying liquid resources sufficient to meet the minimum liquidity resource requirement under Rule 17Ad-22(e)(7)(i), as required by Rule 17Ad-22(e)(7)(ii). Additionally, the proposed alternative pro rata calculation of Supplemental Liquidity Obligations would provide NSCC with the flexibility to determine the total amount collected on a Business Day, while continuing to collect and hold sufficient liquidity to allow NSCC to complete end-of-day settlement in the event of the default of the Member with the largest payment obligations, as required by Rule 17Ad-22(e)(7)(i).<sup>48</sup> As such, this proposed change would support NSCC's ability to hold sufficient qualifying liquid resources to meet its minimum liquidity resource requirement under Rules 17Ad-22(e)(7)(i) and (ii).<sup>49</sup>

#### *(B) Clearing Agency's Statement on Burden on Competition*

NSCC believes that the proposed rule change could have an impact on competition. Specifically, NSCC believes the proposed changes could burden competition because they would require those Members that are identified as Supplemental Liquidity Providers to make an SLD to the Clearing Fund each Business Day, when applicable, rather than only monthly in connection with the expiration of stock options.

Members are currently subject to SLD requirements under Rule 4(A), and, while the proposed rule change could result in a Supplemental Liquidity

Obligation on a more frequent basis, the impact study results, discussed above, show that the proposal would not have a significant impact on the frequency or amount of those requirements. The Supplemental Liquidity Obligations of Supplemental Liquidity Providers would be in direct relation to the specific liquidity exposures presented to NSCC by Members' daily activity. Therefore, Members that present the largest liquidity exposures to NSCC, regardless of the type of Member, currently have, and would continue to have, similar SLD requirements. The proposed alternative calculation of Supplemental Liquidity Obligations would provide NSCC with the flexibility to collect and hold sufficient liquidity to meet NSCC's regulatory obligations while allocating the Supplemental Liquidity Obligations on a pro rata basis among the Supplemental Liquidity Providers for that Business Day. This proposed change would treat each Supplemental Liquidity Provider equally when this alternative calculation is triggered.

Therefore, NSCC believes that any burden on competition imposed by the proposed changes would not be significant and, further, would be both necessary and appropriate in furtherance of NSCC's efforts to mitigate risks and meet the requirements of the Act,<sup>50</sup> as described in this filing and further below.

NSCC believes the above described burden on competition that may be created by the proposed changes to the SLD requirement would be necessary in furtherance of the purposes of the Act, specifically Section 17A(b)(3)(F) of the Act.<sup>51</sup> As discussed above, the proposed change would improve NSCC's ability to estimate its liquidity exposures in the calculation and collection of SLD by using daily activity rather than estimating potential exposures based on activity in a look-back period. In this way, the proposed change would improve NSCC's liquidity risk management by supplementing its liquidity resources that are available to it to complete end-of-day settlement in the event of the default of a Member. The proposed pro rata alternative calculation of SLD would allow NSCC to opt to collect only the largest Supplemental Liquidity Obligation calculated for that Business Day, while still meeting NSCC's applicable regulatory obligations. The proposed enhancements to its liquidity risk management would help NSCC assure the safeguarding of securities and funds

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> 17 CFR 240.17Ad-22(e)(7)(i).

<sup>45</sup> 17 CFR 240.17Ad-22(e)(7)(ii). For purposes of Rule 17Ad-22(e)(7)(ii), "qualifying liquid resources" are defined in Rule 17Ad-22(a)(14) as including, in part, cash held either at the central bank of issue or at creditworthy commercial banks. *Supra* note 7.

<sup>46</sup> See Securities Exchange Act Release Nos. 79528 (December 12, 2016), 81 FR 91232 (December 16, 2016) (File Nos. SR-DTC-2016-007, SR-FICC-2016-005, SR-NSCC-2016-003); 84949 (December 21, 2018), 83 FR 67779 (December 31, 2018) (File Nos. SR-DTC-2018-012, SR-FICC-2018-014, SR-NSCC-2018-013).

<sup>47</sup> 17 CFR 240.17Ad-22(a)(14).

<sup>48</sup> 17 CFR 240.17Ad-22(e)(7)(i).

<sup>49</sup> 17 CFR 240.17Ad-22(e)(7)(i) and (ii).

<sup>50</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>51</sup> 15 U.S.C. 78q-1(b)(3)(F).



which are in its custody or control or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>52</sup>

NSCC believes the above described burden on competition that may be created by the proposed changes to the SLD requirement would be necessary in furtherance of the purposes of the Act, specifically Section 17A(b)(3)(F) of the Act.<sup>53</sup> As discussed above, the proposed change would improve NSCC's ability to estimate its liquidity exposures in the calculation and collection of SLD by using daily activity rather than estimating potential exposures based on activity in a look-back period. The proposal would also establish a monthly intraday SLD to address the additional liquidity exposures that are presented by monthly options expiration activity, and an optional intraday SLD that may be collected when NSCC deems appropriate. In aggregate, the total SLD collected would improve NSCC's liquidity risk management by supplementing its liquidity resources that are available to it to complete end-of-day settlement in the event of the default of a Member. The proposed pro rata alternative calculation of SLD would allow NSCC to opt to collect only the largest Supplemental Liquidity Obligation calculated for that Business Day, while still meeting NSCC's applicable regulatory obligations. The proposed enhancements to its liquidity risk management would help NSCC assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.<sup>54</sup>

The proposal would strengthen NSCC's ability to maintain sufficient liquidity to complete end-of-day settlement in the event of the default of a Member by allowing NSCC to collect SLD each Business Day from those Members that pose the largest liquidity exposures to NSCC on that day. Further, SLD are currently, and would continue to be, cash deposits to NSCC's Clearing Fund, which meet the criteria to be considered qualifying liquid resources, as defined by Rule 17Ad-22(a)(14) under the Act.<sup>55</sup> The proposed alternative pro rata calculation would allow NSCC to continue to collect sufficient liquidity to meet the requirements of Rule 17Ad-22(e)(7)(i).<sup>56</sup> As such, this proposed change would support NSCC's ability to hold sufficient

qualifying liquid resources to meet its minimum liquidity resource requirement under Rules 17Ad-22(e)(7)(i) and (ii).<sup>57</sup>

NSCC believes that the above described burden on competition that could be created by the proposed changes would be appropriate in furtherance of the purposes of the Act because such changes have been designed to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible, as described in detail above. Under both the current Rule 4(A) and the proposed changes to Rule 4(A), the SLD requirements are designed to require those Members whose settlement activity pose the largest liquidity exposures to NSCC to provide SLD in the amount of such exposures. The proposed changes to Rule 4(A) would better support NSCC by allowing it to calculate and collect, when applicable, SLD to address liquidity exposures that are presented by the activity of Supplemental Liquidity Providers each Business Day rather than only during monthly options expiration periods. The proposed rule change would improve NSCC's ability to measure these liquidity exposures by using daily activity rather than estimations based on past activity.

Therefore, because the proposed changes are designed to provide NSCC with a more accurate measure of the liquidity risks presented by Members' daily activity, NSCC believes the proposal would meet NSCC's risk management goals and its regulatory obligations. NSCC believes that it has designed the proposed rule change in an appropriate way in order to comply with NSCC's obligations under the Act. Therefore, as described above, NSCC believes the proposed changes are necessary and appropriate in furtherance of NSCC's obligations under the Act,<sup>58</sup> specifically Section 17A(b)(3)(F) of the Act<sup>59</sup> and Rules 17Ad-22(e)(7)(i) and (ii) under the Act.<sup>60</sup>

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

**III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NSCC-2021-002 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR-NSCC-2021-002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE,

<sup>52</sup> *Id.*

<sup>53</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>54</sup> *Id.*

<sup>55</sup> 17 CFR 240.17Ad-22(a)(14).

<sup>56</sup> 17 CFR 240.17Ad-22(e)(7)(i).

<sup>57</sup> 17 CFR 240.17Ad-22(e)(7)(i) and (ii).

<sup>58</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>59</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>60</sup> 17 CFR 240.17Ad-22(e)(7)(i) and (ii).

Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of NSCC and on DTCC's website (<http://dtcc.com/legal/sec-rule-filings.aspx>). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NSCC-2021-002 and should be submitted on or before April 14, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>61</sup>

**Eduardo A. Aleman,**  
Deputy Secretary.

[FR Doc. 2021-05995 Filed 3-23-21; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91348; File No. SR-NASDAQ-2020-062]

### Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment, No. 1, To Amend Listing Rules Applicable to Special Purpose Acquisition Companies Whose Business Plan Is To Complete One or More Business Combinations

March 18, 2021.

On September 3, 2020, The Nasdaq Stock Market LLC (“Nasdaq” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend its listing rules to permit companies whose business plan is to complete one or more business combinations (“SPACs” or “Acquisition Companies”) 15 calendar days following the closing of a business combination to demonstrate that the SPAC has satisfied the applicable round lot shareholder requirement. The proposed rule change was published for comment in the

**Federal Register** on September 22, 2020.<sup>3</sup>

On November 4, 2020, pursuant to Section 19(b)(2) of the Exchange Act,<sup>4</sup> the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.<sup>5</sup> On December 16, 2020, the Commission instituted proceedings under Section 19(b)(2)(B) of the Act <sup>6</sup> to determine whether to approve or disapprove the proposed rule change.<sup>7</sup> On February 25, 2021, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded the proposed rule change as originally filed. Amendment No. 1 to the proposed rule change was published for comment in the **Federal Register** on March 16, 2021.<sup>8</sup>

Section 19(b)(2) of the Exchange Act <sup>9</sup> provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for comment in the **Federal Register** on September 22, 2020. The 180th day after publication of the Notice is March 21, 2021. The Commission is extending the time period for approving or disapproving the proposal for an additional 60 days.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change as modified by Amendment No. 1, along with the

<sup>3</sup> See Securities Exchange Act Release No. 89897 (September 16, 2020), 85 FR 59574 (“Notice”). Comments received on the proposal are available on the Commission’s website at: <https://www.sec.gov/comments/sr-nasdaq-2020-062/srnasdaq2020062.htm>.

<sup>4</sup> 15 U.S.C. 78s(b)(2).

<sup>5</sup> See Securities Exchange Act Release No. 90340, 85 FR 71704 (November 10, 2020). The Commission designated December 21, 2020, as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

<sup>6</sup> 15 U.S.C. 78s(b)(2)(B).

<sup>7</sup> See Securities Exchange Act Release No. 90682, 85 FR 83113 (December 16, 2020).

<sup>8</sup> See Securities Exchange Act Release No. 91294 (March 10, 2021), 86 FR 14508 (March 16, 2021).

<sup>9</sup> 15 U.S.C. 78s(b)(2).

comments received on the proposal and the Exchange’s response. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Exchange Act,<sup>10</sup> designates May 20, 2021 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NASDAQ-2020-062) as modified by Amendment No. 1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Eduardo A. Aleman,**  
Deputy Secretary.

[FR Doc. 2021-05994 Filed 3-23-21; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91361; File No. SR-ICC-2021-004]

### Self-Regulatory Organizations; ICE Clear Credit LLC; Order Approving Proposed Rule Change Relating to the ICC Governance Playbook

March 18, 2021.

#### I. Introduction

On January 29, 2021, ICE Clear Credit LLC (“ICC”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to update and formalize the ICC Governance Playbook. The proposed rule change was published for comment in the **Federal Register** on February 16, 2021.<sup>3</sup> The Commission did not receive comments regarding the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description of the Proposed Rule Change

The principal purpose of the proposed rule change is to update and formalize the ICC Governance Playbook.<sup>4</sup> Specifically, the proposed rule change would consolidate and summarize governance arrangements set forth in the ICC Clearing Rules

<sup>10</sup> *Id.*

<sup>11</sup> 17 CFR 200.30-3(a)(57).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the ICC Governance Playbook; Exchange Act Release No. 91090 (Feb. 9, 2021); 86 FR 9557 (Feb. 16, 2021) (“Notice”).

<sup>4</sup> The description that follows is substantially excerpted from the Notice, 86 FR at 9557.

<sup>61</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.